

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**MSC.SOFTWARE CORPORATION,**

**Plaintiff(s),**

**CASE NUMBER: 07-12807**

**HONORABLE VICTORIA A. ROBERTS**

**v.**

**ALTAIR ENGINEERING, INC., MARC  
KLINGER, ANDREA PERTOSA, STEPHAN  
KOERNER, TOM RIEDEMAN, RAJIV RAMPALLI  
MARK KRUEGER, and MICHAEL HOFFMAN**

**Defendant(s).**

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**FILED UNDER SEAL**

**ORDER DENYING DOC. # 720**

This matter is before the Court on Klinger and Rampalli's Motion "To Preclude Argument, Examination and/or Evidence Regarding Plaintiff's Claim for Damages in the Form of a Refund of Salaries Paid as it Relates to the Alleged Breach of Defendant Klinger and Defendant Rampalli's Non-Solicitation Agreement." The motion is fully briefed and ready for decision.

Altair's motion is **GRANTED**. MSC, however, is not precluded from seeking loss of investment damages.

On December 18, 2013, the Court ruled that Klinger and Rampalli may be liable for breach of their non solicitation agreements, Count II. The parties now dispute the type of damages recoverable.

This count is governed by California law. Klinger and Rampalli argue that MSC cannot recover these damages because they were never specifically pled. Even if they were, Klinger and Rampalli say that refund of salaries and training costs are not recoverable under California law. Finally, Klinger and Rampalli contend that even if California recognized these damages, MSC is not entitled to recover them because no method of damage calculation has been proposed.

MSC says it will not request return of salaries or training costs. To that extent then, there is no dispute and Klinger and Rampalli's motion is **GRANTED**.

MSC can recover for the benefit of the investment in Klinger and Rampalli that it says it was deprived of. In its brief, MSC says Douglas Neill testified that "MSC generates a return on investment for money paid to its developers of five dollars for every dollar spent on developer compensation." MSC's Response, Doc. 732, 2. This return on investment, if proven, is consequential damages.

**IT IS ORDERED.**

s/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: January 27, 2014

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 27, 2014.

s/Linda Vertriest  
Deputy Clerk